THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 14877 of 2003

Between:

M. Venkateswara Rao s/o M. Ankalu
Vivekananda Centenary High School, Ajit Singh Nagar Vijayawada, Krishna District

..... PETITIONER

AND

1 The District Educational Officer, Krishna at Machilipatnam and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 14877 of 2003

O R D E R:

The petitioner was appointed as Attender in Sri Rama Krishna Vidyalaya High School, Seethanagaram, Tadepalli, Mandal, Guntur District in grant-in-aid post and worked from 11-7-1966 to 27-04-1977. Later, after summer vacation from 13-06-1977, he was transferred to Vivekananda Centeray High School and he worked in the said post till his retirement from service i.e. on 30-0-9-1999 on attaining the age of superannuation. It is stated that even though the petitioner was transferred from one school to another school wherein both the schools are under the same management, consequent to his transfer to the 3rd respondent school, his previous service was not counted for all pensionary benefits. In view of the same, the petitioner made representations to the respondents. But the respondents were

not taken any action on the same. However, he made a representation to the 1st respondent-District Educational Officer, Krishna at Machilipatnam through proper channel requesting to count his earlier service for all pensionary benefits but no action has been taken in this regard. But the respondents counted his service only from 13-06-1977. Therefore, the present writ petition has been filed by the petitioner seeking a Mandamus declaring that he is entitled for fixation of pension and other retiremental benefits by counting his total length of service in the cadre of Attender with effect from 11-07-1966 on the strength of recommendation in Lr.No.C/92-93, dated 20-03-1993 of the 3rd respondent-Correspondent, Sri Vivekananda Centenary High School, Ajit Singh Nagar, Vijayawada read with the grant-in-aid certificate issued by the Secretary & Correspondent, Sri Ramakrishna Vidyalaya High school, Seethanagaram, Guntur District with all consequential benefits.

In the counter affidavit filed by the respondents 1 and 2 it is stated that the 3rd respondent-Vivekananda Centenary High School has made entry in the service register of the individual that the petitioner was relieved on the A.N. of 27-04-1977 at his own request and the relieving order does not contain that it was a transfer. It is further stated that when the school submitted the pension proposals of the petitioner, the 4th respondent-Accountant General, Hyderabad, while sanctioning the pensionary benefits to the petitioner, took an objection that “the service from 11-07-1966 to
27-04-1977 is not taken as qualified service under Rule 26 of R.P.R.1980, as the incumbent is relieved from service at his request.” It is also stated that the petitioner before sending the pensionary proposals or even after the sanction of Revised Pensionary benefits, has not represented to this office for anomalies on his pensionary benefits.

Heard both sides.

Learned counsel for the petitioner contended that though the petitioner was transferred from one school to another school which were run under the same management, his past service in Ramakrishna Vidyalaya High School, Sitanagaram has not been taken into consideration while reckoning all his pensionary benefits. Therefore, prays to allow the writ petition.

On the other hand, learned Government Pleader for School Education appearing for the respondents opposed the same on the ground that the service rendered by the petitioner in one school cannot be taken into consideration for the purpose of fixing the pension in the another school.

I have perused the material on record.

It is not in dispute that the petitioner joined in service as Attender in grant-in-aid post on 11-07-1966 in Sri Ramakrishna Vidyalaya High School, and thereafter transferred to 3rd respondent school and retired there on 30-09-1999 on attaining superannuation. It is the case of the petitioner that even though both the schools under which he worked are under one management, the 3rd respondent school treating his service in that school as afresh, fixed his pay in the minimum time scale of Rs.165/- per month. But in the counter filed by the respondents, it is stated that at the time of retirement of the individual, the 3rd respondent school sent pensionary proposals to the 4th respondent-Accountant General, Hyderabad taking into consideration the previous service of the petitioner with effect from 11-07-1966. The 4th respondent-Accountant General, Hyderabad while sanctioning the pensionary benefits took an objection that the service from 11-07-1966 to 27-04-1977 is not as qualified service under Rule 26 of R.P.R.1980.

In view of the interim direction of this Court dated 24-10-2003, the 1st respondent – District Educational Officer, issued Proc.Rc.No.146/A1/03, dated 01-09-2004 counting the earlier service of the petitioner from the date of his first appointment and issued revised pay fixation and forwarded the same to the 4th respondent. Accordingly, the 4th respondent issued revised pension verification report dated 09-08-2004 subject to final Judgment of the Court.

As can be seen from the letter dated 20-03-1993, addressed to the 1st respondent by the 3rd respondent, it would be appropriate to refer to the relevant paragraphs and the same are extracted hereunder:

> "... Mr.Venkateswara Rao previously worked as Attender from 11-07-1966 to 27-04-1977 in our Sri Ramakrishna Vidyalaya High Scool, Sitanagaram, Guntur Dt. It is a recognized and aided High School under our Management. During the Summar Vacation of 1977, he requested the Management for his transfer to Vivekananda Centenary High School, Azitsinghnagar due to his family affairs. Accordingly, the Management has transferred him from Sri Ramakrishna Vidyalaya , Sitanagaram, Guntur Dist. To Vivekananda Centenary High school and he joined in Vivekananda Centenary High School on 13-06-1977.
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> His 1974 fixation has to be done in Sri Ramakrishna Vidyalaya, Sitanagaram as he was in that school during the period. It took time for the approval of 1974 scales in that district and was communicated to him in January, 1978 by the time he had

been in Vivekananda Centenary High School, Azitsinghnagar, Vijayawada-15.

While fixing his pay during 1978 scales in Vivekananda Centenary High School, his pay was fixed in the minimum unknowingly without taking the last pay drawn in the previous school for consideration…."

From the above letter it is clear that the 3rd respondent-management transferred the petitioner from Sri Ramakrishna Vidyalaya to Vivekananda Centenary High School. Therefore, the letter of the 3rd respondent would clearly indicate that in the year 1977, as a matter of fact, the petitioner was transferred from one school to another school which were runing under same management.

Having regard to the facts and circumstances of the case, since the 1st respondent-District Educational Officer, in pursuance of the interim directions of this Court dated 24-10-2003, issued proceedings dated

01-09-2004 and in turn submitted the revised pension proposals of the petitioner to the 4th respondent and consequently, the pension case has been revised subject to final Judgment of this Court, I am of the view that the writ petition is liable to be allowed and is accordingly allowed with a direction to implement the proceedings dated 01-09-2004 of the 1st respondent-District Educational Officer, Krishna at Machilipatnam as well as the revised pension verification report dated 09-08-2004.

With the above observation, the writ petition is allowed. No costs.

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24-08-2005

Note: CC in two days.

B/o MjI/*